HON'BLE MR. JUSTICE D.S.R.VARMA

WRIT PETITION NO.885 OF 2006

DATED.17.01.2006

Between:

D.Satyanarayana, S/o. Late Gandaiah,

Aged about 54 years, Occ: Agriculture,

R/o.H.No.2-114, Nanakramguda Village,

Sherlingampally Mandal, R.R. District &

Three others.

……PETITIONERS

AND

The Deputy Collector and Mandal Revenue

Officer, Sherilingampally Mandal, R.R. District

And 41 others.

……RESPONDENTS

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HON'BLE MR. JUSTICE D.S.R.VARMA

WRIT PETITION NO.885 OF 2006

ORDER

Heard both sides.

The Writ Petition is filed challenging the orders passed by the first respondent, dated 5.10.2005 whereunder and whereby the alleged surrender offered by the protected tenant in the lands in Sy.Nos.69, 70, 71, 72 and 73, admeasuring Ac.5.17 guntas situated at Nanakramguda Village, Sherilingampally Mandal, was accepted.

From the records supplied to the Court it appears that, earlier on 30.8.2005 an order was passed by the first respondent in an application filed by the legal heirs of one Gandaiah, wherein it was found that those legal heirs, who are the successors of the protected tenant in an extent of Ac.2.29 guntas i.e. were granted half share of the land in question.

Actually, in the order passed on 30.8.2005 it was categorically found that the total extent of Ac.5.17 guntas of land belongs to the joint family property of Bakkaiah and Gandaiah. The petitioners herein are the legal heirs of Gandaiah, whereas the petitioners in the present impugned order are the legal heirs of Bakkaiah. When once an order has already been passed on 30.8.2005 in favour of the petitioners stating that they have half share in the property to an extent of Ac.2.29 guntas, now, it is rather unthinkable to pass the impugned order stating that the surrender offered by the legal heirs of the protected tenant in favour of the landlords, contrary to the procedure prescribed under Section 19(1) of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short, the Act). Perhaps, the first respondent

had ignored the effect of the orders passed on 30.8.2005 wherein certain rights have been conferred on the petitioners. Hence, if the present impugned order is accepted, the petitioners have to forego their rights with regard to the half share of their property to an extent of Ac.2.29 guntas. In other words, the effect of the impugned order amounts to taking away the rights of the petitioners, which were already recognized through the proceedings, dated 30.8.2005. Hence, the impugned order, dated 5.10.2005 of the first respondent is liable to be set aside.

Under those circumstances, the impugned order of the first respondent, dated 5.10.2005 is set aside. It is imperative to direct the first respondent to enquire into the whole issue once again, particularly keeping in view the findings recorded in the orders, dated 30.8.2005, passed under Section 32 of the Act, and pass appropriate orders.

With the above observations and directions, the writ petition is disposed of. No costs.

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D.S.R.VARMA, J

17th January 2006.

Tsr/Bnr.